

## **REMARKS/ARGUMENTS**

Applicants respond herein to the Office Action dated October 24, 2008.

Applicants' attorneys appreciate the Examiner's continued thorough search and examination of the present patent application.

Claims 4, 7, 8, 11-17 and 20-22 are pending in this application.

All claims have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,149,669 to Li ("Li") in view of U.S. Patent No. 5,964,764 to West, Jr. et al. ("West"). Reconsideration and withdrawal of this rejection are respectfully requested.

The invention of independent claims 4 and 14 is directed to knotless suturing. Accordingly, claims 4 and 14 have been amended to more clearly recite this feature. Both claims now recite "threading a suture through the second tissue for forming a suture loop in the second tissue thereby knotlessly securing the second tissue in the loop, the loop defining two suture portions". An example of this is illustrated in Figure 7, where suture 32 is threaded through tissue 30 creating a loop without making knots. No new matter has been added.

Additionally, new independent claim 25 and claims 26-29 dependent from claim 25 have been added. These claims are based on the subject matter of claim 14.

In rejecting the claims, the Examiner identified Figures 8-10 and the specification col. 7, lines 4-64 of Li, as teaching the recitations of the claims of the present application. At page 4, lines 3-8, the specification of the present application describes Li's device as follows:

a type of "button anchor" which utilizes a button or washer member secured to the anchor by suture to hold tissue in place. It also shows spanning sutures connected to plural suture anchors to secure tissue to bone. However, the requirement of a button/washer member or plural anchors may preclude these devices from a number of applications.

Throughout the Examiner referenced section Li calls for the button element 90, which is illustrated in Figures 8-10. At col. 7, lines 10-11 Li states the following: "a suture anchor 20 has an extending member, shown as a button element 90". At col. 7, lines 19-64 (referenced by the Examiner) Li proceeds to describe the use of his apparatus using the button element 90.

Significantly, contrary to the present invention, the use of the button elements 90 requires Li to tie sutures 60 in knots 61 (see Figures 9 and 10) positioned on the surface of the button element 90 facing away from the ligament tissue 52. In particular, see the knots clearly shown in

Figure 9.

Therefore, Li does not teach, disclose, or suggest a method for knotlessly securing first and second tissues with a suture anchor.

Furthermore, Li does not teach, disclose, or suggest "... causing clamping of the at least one of the two suture portions in the anchor" recited in claim 4. This limitation is similarly recited in independent claim 14 and new independent claim 25. The suture portions in Li's anchor are threaded through hole 63 in shaft 42 (see Figure 8) and are tied off at the button 90. See column 7, lines 9-13. The sutures 60 are merely threaded through the suture hole 63 in engaging portion 30. The sutures are not clamped there, as in the invention. In Li, the sutures that are threaded through this hole 63 are threaded through the button 90 and thereafter tied off with a knot. This is an important difference between Li and the invention. Because Li does not even suggest the step of clamping the suture, he cannot teach or suggest a knotless suturing method or anchor. In the present invention, the suture is looped through the second tissue (not knotted). Then, at least one suture end is threaded through the anchor, between the clamping members. (In one embodiment, one suture end is previously tied off, in another, both ends are threaded through the clamping members). Then, the anchor is emplaced in the first tissue, the clamping takes place to secure the suture to the anchor and thereby secure the second tissue to the first tissue, all without forming any knots during the process.

Contrary to the invention of the independent claims of the present application, the suture portions are not clamped in Li's anchor. Because the clamping step is missing in Li, it does not teach, disclose, or suggest "the step of clamping [comprising] providing a spacing between two clamping members in the anchor and frictionally engaging the at least one of the two suture portions between the clamping members" as recited in claim 4.

Thus, for the above reasons, Li does not anticipate or render obvious the recitations of independent claims 4, 14, and 25.

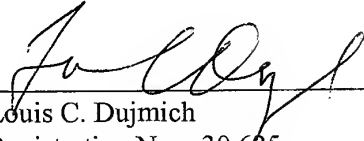
West does not remedy the described deficiencies of Li.

Claims 7-8, 11-13, 15-17, 20-22, and new claims 26-30 depend directly or indirectly from above discussed independent claims 4, 14, and 25 and are, therefore, allowable for the same reasons, as well as because of the combination of features in those claims with the features set forth in the respective independent claims.

In view of the above, it is submitted that all claims in this application are now in condition for allowance, prompt notification of which is requested.

THIS CORRESPONDENCE IS BEING  
SUBMITTED ELECTRONICALLY THROUGH  
THE PATENT AND TRADEMARK OFFICE EFS  
FILING SYSTEM ON February 10, 2009.

Respectfully submitted,



---

Louis C. Dujmich  
Registration No.: 30,625  
OSTROLENK, FABER, GERB & SOFFEN, LLP  
1180 Avenue of the Americas  
New York, New York 10036-8403  
Telephone: (212) 382-0700

LCD:JK:ck